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Human rights situation in Palestine and other occupied Arab territories

Implementation of Human Rights Council resolutions S-9/1 and S-12/1*

Report of the United Nations High Commissioner for Human Rights

Summary

In the present report, the United Nations High Commissioner for Human Rights highlights issues of concern in the Occupied Palestinian Territory, and makes recommendations with regard to each of the main duty-bearers concerned, namely the Government of Israel, the Palestinian Authority and the authorities in Gaza. With regard to issues in the West Bank, including East Jerusalem, the High Commissioner examines the excessive use of force by Israeli and Palestinian security forces, which has led to an increase in deaths in the past year. With regard to Gaza, he addresses the ongoing blockade and the enforcement of access restricted areas, noting the hardships and human rights violations that these measures created. In particular, he draws attention to the impact of the blockade on freedom of movement and reconstruction and economic development in Gaza.

* Late submission.

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I. Introduction

1. The present report, the seventh periodic report of the United Nations High Commissioner for Human Rights on the human rights situation in the Occupied Palestinian Territory, covers the period from 9 November 2013 to 31 October 2014.

2. The period from 12 June to 26 August 2014 was marked by violence throughout the West Bank, including East Jerusalem, and an unprecedented escalation of hostilities in Gaza. The possible violations of international humanitarian law and international human rights law and the human rights abuses committed during that period have been addressed separately (see A/HRC/28/80/Add.1). The International Commission of Inquiry, established pursuant to Human Rights Council resolution S-21/1, is due to report on the events between 12 June and 26 August 2014, and will address issues of accountability for violations of international law at the twenty-eighth session of the Council.

3. The information contained in the present report is based primarily on human rights monitoring carried out by the field presence of the Office of the High Commissioner (OHCHR) in the Occupied Palestinian Territory. Monitoring activities are implemented within the framework of General Assembly resolution 48/141 and Human Rights Council resolutions S-9/1 and S-12/1.

II. Legal background

4. International human rights law and international humanitarian law apply in the Occupied Palestinian Territory. A detailed analysis of the legal obligations of Israel, as the occupying Power, the Palestinian Authority, the de facto authorities and Palestinian armed groups in Gaza are contained in the first periodic report of the High Commissioner on the situation of human rights in the Occupied Palestinian Territory (A/HRC/12/37, paras. 5-9).

5. In 2014, the State of Palestine deposited instruments of accession to 20 international treaties,[1] including seven of the nine core international human rights treaties (see paras. 67 – 70 below).[2] By acceding to these treaties, the State of Palestine has assumed legal obligations under international law, including that of reporting to various human rights treaty bodies. Nevertheless, Israel, as the occupying Power, remains bound by international human rights law and international humanitarian law, while other relevant actors also remain bound by international law.

6. On 23 April 2014, Fatah and Hamas agreed to form a government of national consensus, which was sworn in by President Mahmoud Abbas, under the leadership of Prime Minister Rami Hamdallah, on 2 June 2014. At the end of the period under review, however, uncertainty remained with regard to the actual power exercised by the Government and the degree to which it or any other authority or group exercised control in Gaza. In any event, those authorities or groups exercising government-like functions and effective control over territory in Gaza are bound by relevant human rights law in that territory (see A/HRC/8/17, para. 9).

[1] See "Palestine's Accession to International Treaties Q&A", 2 April 2014, available on the website of the Negotiations Affairs Department of the Palestine Liberation Organization (www.nad-plo.org).

[2] See also A/69/347, para. 4.

III. Human rights violations by all duty-bearers

A. Israel

1. Blockade of Gaza and access restricted areas

7. The blockade imposed by Israel on Gaza since 2007 in violation of international law continued to affect adversely the enjoyment of human rights in Gaza, in particular economic, social and cultural rights (A/HRC/28/45, paras. 34–42). In the access restricted areas, the continued use of live fire by Israel Defense Forces resulted in the injury and death of several Palestinians.

8. Import and export restrictions imposed by Israel continue to reduce economic activity in Gaza, thereby stifling the economy.[3] The Kerem Shalom crossing, the only operating commercial crossing between Gaza and Israel, allows a maximum of 500 truckloads of goods to enter Gaza a day, which is insufficient to meet the needs of the population. According to the Office for the Coordination of Humanitarian Affairs, the weekly average number of truckloads in 2014, when compared to pre-blockade levels, stood at 32 per cent for imports and less than 1 per cent for exports.[4] Unemployment increased in Gaza from 26.4 per cent in the second quarter of 2007 to 44.5 per cent in the same quarter of 2014.[5] Before the Israeli military operation "Protective Edge", 57 per cent of the population in Gaza were food insecure; and by the end of 2014, 70 per cent were dependent on humanitarian aid.[6]

9. Israel continues to limit the passage of Palestinians through the Erez crossing to "exceptional humanitarian cases". As a result, Palestinians in Gaza were unable to go to the West Bank, including East Jerusalem, or abroad, for educational or professional purposes. They thus relied heavily on the Rafah crossing, between Gaza and Egypt, until its closure in October 2014. Since then, the Erez crossing is the only option for Palestinians to leave Gaza.

10. The access of Palestinians in Gaza to emergency medical treatment outside Gaza through Erez remained unpredictable and fluctuated. Given the vast number of seriously injured Palestinians requiring medical treatment during and after the escalation of hostilities in July and August 2014, and the damage sustained to the already limited health facilities and capacity in Gaza, the number of permits granted did not meet the needs of the population. With the repeated closure of the Rafah crossing, many people requiring medical treatment unavailable in Gaza were unable to seek medical treatment outside of it.

11. The restrictions on the freedom of movement of Palestinians from Gaza were further compounded by the frequent closure of the Rafah crossing between Gaza and Egypt. Prior to the escalation, the crossing had operated irregularly, with entry and exit limited to Palestinians with dual citizenship, those with foreign visas and/or Egyptian residency status, and patients requiring emergency medical care.[7] The crossing was open daily between 26 August and 24 October 2014 for the same category of people, but was closed

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[3] See reliefweb, Gaza: Fact Sheet, September 2014.

[4] Office for the Coordination of Humanitarian Affairs, Occupied Palestinian Territory, Protection of Civilians report, reporting period 23 – 29 December 2014.

[5] See Palestinian Central Bureau of Statistics, Labour Force Surveys (April – June 2007) and (April – June 2014).

[6] Gisha, the Gaza Cheat Sheet: Real Data on the Gaza Closure, 19 January 2015.

[7] Gisha, "One step at a time: Israel revises criteria for exiting Gaza", 26 October 2014.

thereafter following an attack on Egyptian military troops in the Sinai. It was still closed at the end of the period under review.

12. The restricted access of fishermen to fishing waters continued. Israeli Naval Forces arrested approximately 53 fishermen, confiscated 22 boats, damaged one and destroyed two others during the period under review.

13. The restrictions of Israel on the entry of construction materials into Gaza continued to undermine the reconstruction and economic development in Gaza. The Gaza Reconstruction Mechanism, a temporary agreement between the Government of Palestine and the Government of Israel brokered by the United Nations in September 2014 and launched on 20 October 2014, represents an attempt to ease the crisis and to begin reconstruction. Given the scale of reconstruction needs, the initial phase of implementation of the Mechanism produced only limited results;[8] and whether it will lead to significant increases in the flow of materials, such as cement, iron bars and gravel, into Gaza remains to be seen. At the end of October 2014, more than 70,000 people remained homeless, their homes having been damaged or destroyed during the hostilities.[9]

14. Although accelerating the Mechanism is critical to addressing the situation of internally displaced persons, it is no substitute for lifting the blockade. The continued imposition of the blockade is contrary to international law and constitutes a form of collective punishment that denies the rights of the population in Gaza (see A/HRC/28/45, paras. 34 – 42).

2. Excessive use of force and accountability

15. During the period under review, a dramatic increase was seen in the number of incidents involving Israeli security forces in the West Bank, including East Jerusalem, resulting in 47 Palestinian fatalities.[10] By comparison, there were 27 fatalities in the whole of 2013 and eight in 2012.

16. Twenty fatalities were recorded in the context of demonstrations against the hostilities in Gaza while they were ongoing (see A/HRC/28/80/Add.1). As in previous years, both in the context of demonstrations and in other incidents, OHCHR documented that Israeli security forces appeared to be under little or no threat at the time of the incidents, indicating the unnecessary or disproportionate use of force (A/69/347, paras. 44 – 51).

17. Of particular concern was the killing of two Palestinian youths, shot at Beituniya in the West Bank on 15 May 2014 in demonstrations commemorating what Palestinians call "Nakba day". OHCHR found that the Israeli security forces faced no threat when the two youths were killed. During the period under review, a total of six people were shot and killed (including two children) and 128 were injured as a result of enforcement of access restricted areas by Israeli security forces in Gaza. In some incidents, shooting by Israeli security forces occurred in circumstances that, according to information available to OHCHR, posed no threat to soldiers (A/HRC/28/45, paras. 15-17). Nine fishermen were injured between 9 November 2013 and 31 October 2014 while reportedly fishing in the permitted fishing zone. According to information gathered by OHCHR, the fishermen

[8] As at 4 November 2014, some 700 Gazans had been able to purchase materials.

[9] Office for the Coordination of Humanitarian Affairs, Occupied Palestinian Territory, Protection of Civilians report, reporting period 28 October – 3 November 2014.

[10] Figures do not include the death of two Palestinians who allegedly died of tear gas inhalation during clashes between Palestinians and the Israel Defense Forces (on 1 January and 14 April 2014 respectively).

posed no lethal threat to the Israeli security officers when they were shot, although some of them reportedly attempted to approach the shore when they saw Israeli security forces ships in the area.

18. B'tselem, an Israeli non-governmental organization, informed OHCHR that, since the adoption of the policy of automatically opening of investigations regarding Palestinian fatalities involving Israeli security forces in incidents outside of "combat activity", there had only been two indictments and one conviction out of 36 investigations launched. With regard to the access restricted areas, OHCHR was informed by the Legal Centre for Arab Minority Rights in Israel (Adalah) that one investigation into an incident involving the use of excessive force by Israeli security forces. Both the High Commissioner and the Secretary-General have highlighted the imperative need to ensure accountability for incidents involving excessive use of force (see A/HRC/24/30 and A/69/347). In that connection, the High Commissioner takes note of the indictment of a border police officer allegedly involved in one of the killings at Beituniya on 15 May 2014. No one has yet been indicted in relation to the other killing on the same day.

3. Settlements and settler violence[11]

19. During the period under review, Israeli settlements continued to expand in the West Bank, including East Jerusalem. For instance, in April and August 2014, more than 1,000 acres of land located nearby Bethlehem were declared State land (see A/HRC/28/44). Once land is declared as such, it is often allocated for settlements (see A/69/348, para. 20 and A/HRC/28/44, chap. IV).

20. Israeli settlements and settler violence continue to be a root cause of many violations of the Palestinians' human rights. The well-documented failure of Israel to address settler violence against Palestinians, either by protecting vulnerable communities or through ensuring accountability for violence committed by settlers, has led to repeated violations (see A/HRC/28/44, chap. V). According to one Israeli non-governmental organization, between 2005 and 2014, 91.4 per cent of the complaints it monitored were closed without an indictment.[12]

4. Demolitions and forcible transfer

21. The High Commissioner has expressed concern on several occasions regarding forced evictions and demolitions in the West Bank, including East Jerusalem (A/HRC/25/40, paras. 17-22). According to the Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territory during the period under review, 620 Palestinian structures were demolished, of which 244 were residential. A total of 1,246 people were consequently displaced, including 699 children.

22. In most cases, demolitions were carried out under the Israeli planning regime, which unlawfully discriminates against Palestinians (A/HRC/25/38, paras. 19-20). The implementation of demolition orders under such a regime violates the State's obligations to respect the right to adequate housing, including the security of tenure and freedom from arbitrary or unlawful interference with privacy, family and home (see A/HRC/25/40, para. 20).

23. In addition, thousands of Palestinian Bedouins and herders living in Area C of the Central West Bank continued to be at risk of forcible transfer owing to a plan advanced by

[11] See also A/HRC/28/44.

[12] Yesh Din, Law Enforcement on Israeli Civilians in the West Bank, Data Sheet, November 2014. See also A/HRC/28/44, chap. V.

Israeli authorities to transfer them to three centralized sites (see A/69/348, paras.12-16). Forcible transfer would be in violation of article 49 of the Fourth Geneva Convention (see A/69/348, para.53 and CCPR/C/ISR/CO/4, para. 9). It is expected that the Israeli Higher Planning Council will make a decision on the objections presented to the plan by the communities affected before mid-2015. According to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), such decisions may be reviewed by the Supreme Court of Israel.

24. The Israeli Civil Administration has been taking actions aimed at facilitating such a transfer by creating a coercive environment, including by issuing demolition, seizure and stop work orders against structures belonging to the Bedouin communities affected, restricting access to grazing lands and markets for their products, and limiting the issuance of building permits (see A/69/348, paras.12-16). According to UNRWA, there were 229 demolitions of Bedouin-owned structures, including 129 concerning residential structures during the period under review.

5. Situation in East Jerusalem

25. The situation in East Jerusalem deteriorated significantly during the period under review, which witnessed demonstrations by Palestinians, an increase in incidents involving the use of force by Israeli security forces resulting in Palestinian casualties, and attacks by Palestinians on Israelis (see A/HRC/28/80/Add.1). The significance of East Jerusalem and its holy sites makes it a sensitive trigger point for friction and violence and its status of central importance to any peaceful resolution of the conflict.

6. Detention

26. Non-governmental organizations and lawyers with access to Israeli detention facilities reported to OHCHR many allegations of torture and ill-treatment of detainees by Israeli authorities, particularly by the Internal Security Agency. These allegations were consistent with reports received in previous years;[13] for example, an Israeli non-governmental organization documented allegations of the use by the Agency of incommunicado detention, sleep deprivation, beatings (slapping, kicking and punching), stress positions, strangulation and prolonged shackling.[14] It expressed particular concern that, in the aftermath of the abduction and murder of three Israeli youths, detainees were at a heightened risk of torture and ill-treatment.[15]

27. To date, no crime of torture under international law has been incorporated into legislation in Israel; "defence of necessity" continues to be legal, and is used as a possible justification of torture (see CCPR/C/ISR/CO/4, para. 14). This compounds the long-standing concern at the apparent complete lack of accountability for allegations of torture and ill-treatment. For more than a decade, not a single criminal investigation has been opened into hundreds of complaints lodged against the Internal Security Agency.[16] While the appointment in February 2014 of a new civilian inspector responsible for handling complaints within the Agency marked a minor improvement in the system of accountability, as at October 2014 no criminal investigation had been opened for at least a decade (see CCPR/C/ISR/CO/4, para. 14).

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[13] Public Committee against Torture in Israel, "Activities and Achievements 2013". See also CCPR/C/ISR/CO/4, para. 15.

[14] See Public Committee against Torture in Israel (PCATI), "Activities and Achievements 2013", and, its submission to the Human Rights Committee, 112th session, 14 September 2014, pp. 14-26.

[15] PCATI submission, pp. 20-24.

[16] PCATI submission, p. 6.

7. Detention of children

28. At the end of September 2014, 181 boys and one girl were in Israeli detention for alleged security offences. Their ages ranged from 14 to 17 years, with 125 in pretrial detention and 57 serving a sentence.[17] This was approximately the same as the monthly average seen in 2013.[18] Approximately 49 per cent of children in detention were unlawfully transferred to Israel, in violation of article 76 of the Fourth Geneva Convention.

29. Some of the testimonies gathered by the Working Group on Grave Violations against Children between May 2013 and September 2014 from 159 children illustrate what children experience in Israeli detention. These showed that many of the issues highlighted by the United Nations Children's Fund (UNICEF) in February 2013[19] remained a concern. Many stated that they had been arrested by Israeli security forces during military night raids despite the recommendation made by UNICEF that they be stopped and that the pilot scheme introduced by Israel in October 2013 to issue summonses be adopted instead.[20] In most cases, parents were not clearly informed at the time of arrest of where their child was being taken or the reason for the arrest. In all the cases documented, parents were not allowed to accompany their children, and three-quarters of the children stated that they had not been informed of their right to legal counsel. A total of 89 per cent of those interviewed reported being painfully hand-tied, 76 per cent blindfolded and 77 per cent subjected to beating, slapping, kicking and beatings with a stick on various parts of the body, including the head and face. Almost 40 per cent of the children suffered from painful restraints or from being forced to lie on the floor of a vehicle used by the Israeli security forces.[21]

30. According to some affidavits seen, children had been subjected to torture and/or ill-treatment during interrogation with the purpose of obtaining a confession, as previously reported by the Secretary-General and non-governmental organizations.[22] Children reported having been restrained to a chair, in some cases for extended periods, which caused them pain in their hands, back and legs. Many children experienced physical violence or were threatened with solitary confinement, sexual assault against them or a family member, and reportedly received death threats. Some were coerced to sign a confession in Hebrew, a language most did not understand. According to UNICEF, most children saw their lawyers for the first time when they were brought to court.

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[17] UNICEF, Children in Israeli Military Detention, Bulletin No. 2, February 2015, p. 3.

[18] Military Court Watch, a non-governmental organization, informed OHCHR that the figures given might not reflect the real number of children arrested and detained since, for example, children detained for short periods by the Israeli security forces and not transferred to Israeli prisons were not included.

[19] UNICEF, Children in Israeli Military Detention, Observations and Recommendations, February 2013.

[20] See ibid, Timing of arrests and arrest warrants, recommendation (i), p. 15. See also UNICEF, Children in Israeli Military Detention, Bulletin No. 2, February 2015.

[21] Information provided by the monitoring and reporting mechanism, managed by country-based task forces co-led by UNICEF to provide timely and reliable information on grave violations of children's rights. The UNICEF-led Working Group on Grave Violations against Children in the Occupied Palestinian Territory informed OHCHR that the mechanism database stores records on all cases of physical violence and verbal abuse, but not on the time of the event. The statistics related to physical violence and verbal abuse relate to the whole detention process including the arrest, transfer and interrogation.

[22] See CRC/C/ISR/CO/2-4, paras. 35-36. DCI-Palestine and Military Court Watch also documented many similar allegations in their submissions to OHCHR. See also A/HRC/24/30, paras.56-57.

31. In the majority of cases, the principal evidence against the child was the child's own confession.[23] Israeli Military Order 1745, which came into effect on 10 September 2014, provides for the audiovisual recording of police interrogations of children, but only in relation to non-security offences. The majority of Palestinian children in detention are, however, reportedly prosecuted for alleged security offences (under Israeli Military Order 1651), in particular stone throwing.

8. Administrative detention

32. According to an Israeli non-governmental organization, in May 2014, Israel was holding 196 administrative detainees.[24] By the end of August 2014, this number reached 493 (see A/HRC/28/80/Add.1); by the end of October, there were still 457 Palestinian administrative detainees.[25]

33. Israel's practice of administrative detention has been condemned by the Secretary-General (A/69/347, para. 29), the High Commissioner (A/HRC/25/40, para. 40) and the Human Rights Committee (CCPR/C/ISR/CO/4, para. 10); the concerns raised remain valid today. Detainees are brought before a judge in a military court and not charged with any criminal offence. The Secretary-General and the Human Rights Committee called for an end to the administrative detention regime and stressed that detainees should be allowed to challenge their detention and, in the absence of prompt criminal charges, be released without delay (A/69/347, para. 29 and CCPR/C/ISR/CO/4, para. 10). The use of secret evidence in most cases makes it impossible for detainees to challenge the basis of their detention (A/HRC/25/40, para. 40 and CCP/C/ISR/CO/4, para. 10). Detention orders are moreover issued for one to six months, and may be renewed indefinitely.

9. Hunger strikes and sick detainees

34. From 24 April to 25 June 2014, a large number of detainees (as many as125) went on a hunger strike to protest against Israel's continued use of administrative detention (A/69/347, para. 28). OHCHR received reports that the authorities had made attempts to break the strike, allegedly by punishing the detainees for going on strike, for instance by transferring them to other facilities, putting them in isolation, and through repeated and extensive cell searches and the denial of medical treatment. The detainees were also reportedly denied access to counsel during the hunger strike. This raises concern at the possible violations of detainees' right to freedom of expression and with regard to the prohibition of torture and ill-treatment. At the time of the hunger strike, a bill amending the Prisons Act was brought before the Knesset that would permit force-feeding and medical treatment of prisoners on hunger strike against their will under certain conditions, in contravention of international standards.[26] The timing of the bill suggested that it may have been intended to break the strike. Following the end of the hunger strike on 25 June 2014,

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[23] UNICEF, Children in Israeli Military Detention (see footnote 19), p. 11. According to the No Legal Frontiers, a non-governmental organization, between 2010 and 2011, the vast majority of files in the juvenile justice system in Israel were based on defendants' confessions given during police interrogations, and on incrimination by boys of similar ages given in the same circumstances. In no case was there a trial within a trial on the admissibility of the confessions" (see "All Guilty! Observations in the Military Juvenile Court 2010-11"). See also Defence for Children International Palestine, "Bound, Blindfolded and Convicted: Children held in military detention", April 2012, p. 41.

[24] B'tselem, Statistics on Administrative Detention, 1 January 2011.

[25] Ibid.

[26] OHCHR, Press briefing notes on Israel / Occupied Palestinian Territory, 20 June 2014.

consideration of the bill was postponed in the face of domestic and international opposition, although it had not been withdrawn at the end of the period under review.

10. Gaza

35. According to Palestinian human rights organizations, as at December 2014 some 400 Palestinians from Gaza were detained in Israel for security and political reasons. Under international law, and in particular article 76 of the Fourth Geneva Convention, protected persons accused of offences must be detained and, if convicted, serve their sentences within the occupied territory.

36. During the military operation in Gaza, the Israel Defense Forces arrested 66 men (A/HRC/28/80/Add.1), 31 of whom were transferred to Israel; the remaining 35 were subsequently released. According to the Palestinian Centre for Human Rights and the Al Mezan Center for Human Rights as at October 2014, 22 Palestinian detainees arrested during the escalation remained in detention in Israel. At the end of the period under review, the Al Mezan Center informed OHCHR that one of the 22 detainees had been reportedly held since 24 August 2014without trial under the Unlawful Combatant Act 5762-2002.

37. The right to family visits of Palestinian detainees from Gaza remained severely restricted during the period under review. At 11 June 2014, no more than four relatives could visit detainees once a month. Following the disappearance of three Israeli youths on the West Bank on 12 June 2014, and throughout the escalation of hostilities in Gaza, however, family visits were suspended for four months. They resumed in October 2014, when the Government of Israel announced that it was easing measures, including a decision to permit 50 detainees to receive family visits once a week. Detainees could receive up to six relatives, including their parents, spouse and three children.[27] However, human rights organizations reported that, in practice, each detainee was only permitted to have three visitors per visit.[28]

B. Palestinian Authority

1. Torture, ill-treatment and arbitrary detention

38. During the period under review, OHCHR continued to monitor detention facilities managed by the Palestinian Authority, focusing on detention centres managed by General Intelligence and the Palestinian Preventive Security Service. Palestinian authorities continued to cooperate with OHCHR, in particular by allowing it to have unannounced and unrestricted access to the detention facilities of the Palestinian Preventive Security Service (see A/HRC/25/40, para. 44). In 2014, OHCHR was also granted unannounced and unrestricted access to the detention centres run by General Intelligence.

39. Torture and ill-treatment are prohibited under international and Palestinian law alike. On 14 May 2013, President Abbas issued an order requiring authorities competent to make arrests and order detention and interrogations to abide by the Palestinian Basic Law and relevant laws that prohibit all forms of torture and degrading treatment, as well as relevant international human rights treaties.[29] Notwithstanding these legal provisions, OHCHR

[27] Gisha, "One step at a time: Israel revises criteria for exiting Gaza", 26 October 2014.

[28] Addameer, "The Palestinian prisoner: of Israel". Reportedly, as at November 2014, only three relatives and only children younger than 10 years of age were allowed to visit detainees.

[29] International Covenant on Civil and Political Rights, art. 7; Palestinian Basic Law, art. 13; Palestinian Law of Penal Procedure No. 3, art. 29.

documented cases of torture and ill-treatment, as well as arbitrary detention, in particular of persons affiliated with political opposition groups.

40. Detainees informed OHCHR that they had often been blindfolded, handcuffed, slapped in the face, beaten on different parts of their bodies, forced into *shabeh* (a stress position for an extended period of time) and received threats against themselves and their families with the aim of obtaining a confession. In a case monitored by OHCHR in September 2014, a detainee reported being forced to stand with his hands up against the wall for some 13 hours during the first day of his interrogation. On the second day, he was slapped in the face, and kicked in the legs and abdomen for about three hours. The detainee claimed that he confessed in order to avoid further beating.

41. Detention conditions, including overcrowding, inadequate sanitary conditions, and lack of access to natural light and recreational exercise remain causes for concern. Detainees were in many cases held for days in very small cells (approximately 2 by 1.7 metres), with almost no ventilation or natural light. In one case monitored by OHCHR in January 2014, a detainee was held in such a cell for 25 days. He was reportedly transferred to a larger cell with other detainees after he commenced a hunger strike to protest against his conditions of detention. In some cases, detainees were held in such cells for long periods of time, in high temperatures during the summer and cold temperatures in winter. In another case monitored by OHCHR in January 2014, 12 people were held in a small cell (approximately 5 m^2).

42. OHCHR documented multiple violations of the right to a fair trial and due process of law. In most cases, individuals were not informed of the reason for their arrest, in violation of article 9.2 of the International Covenant on Civil and Political Rights and Principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (see also CCPR/C/GC/35, paras. 25 and 27). Most detainees reported being brought before the court 72 hours after their arrest.[30] International law provides that anyone arrested or detained must be brought promptly before a judge. In its general comment No. 35, the Human Rights Committee stated that any delay longer than 48 hours must remain absolutely exceptional; prolonged detention without judicial control (given that a public prosecutor cannot be considered an officer exercising judicial power under article 9.3 of the International Covenant on Civil and Political Rights) increases the risk of ill-treatment (CCPR/C/GC/35, paras. 32-33).

43. Courts usually extended the detention for investigation purposes for weeks, and, in some cases, months.[31] Several detainees reported, however, that they had not been interrogated after their detention had been extended. Although the courts generally review detention orders, they do not appear to be subjecting detention and the action of security

[30] Palestinian Law of Penal Procedure No. 3 establishes that a detainee may be held for questioning for 24 hours, after which the detainee must be brought before the Prosecutor, who will decide whether to release or to keep the detainee, for a maximum of 48 hours, for further interrogation. Thereafter, any extension of detention requires court authorization (arts. 107, 108 and 115).

[31] According to Palestinian Law of Penal Procedure No. 3, art. 120, magistrates courts may extend detention for 15 days during the first hearing. Thereafter, they may extend it for a period not exceeding 45 days in total. Upon request of the Attorney General or his/her assistants, detention may be further extended by a court of first instance for a period not exceeding three months.

forces to sufficient scrutiny, which raises concerns that such cases of detention may be arbitrary.[32]

44. OHCHR is concerned that, in most of the cases monitored, detainees were unable to meet their lawyers in private during the interrogation period, in contravention of Palestinian and international law.[33] Many detainees reported meeting their lawyers for the first time at the first hearing in court (usually held 72 hours after the arrest).

45. Incommunicado detention remains a cause for concern (A/HRC/25/40, para. 45). In a case monitored by OHCHR in January 2014, a detainee reported that he had been denied contact with his family and his lawyer for 22 days. In another case monitored in October 2014, a detainee reported that he was not permitted to contact his lawyer and family for 13 days. In its general comments No. 20 (CCPR/C/GC/20, para. 11) and No. 35 (CCPR/C/GC/35, para. 35), the Human Rights Committee noted that incommunicado detention increased the risk of torture and ill-treatment, and could also violate several other rights, including the rights to life, to personal integrity and to due process of law.

46. OHCHR received information from numerous detainees claiming that they had been detained by order of the provincial Governor. Such detention is provided for under domestic law,[34] with the stated objective of protecting detainees, maintaining public order and preventing crimes related to national security.[35] This type of detention is reportedly not reviewed by a judge or any other officer authorized by law to exercise judicial power, in contravention of international law.[36]

47. In one case monitored by OHCHR, a Palestinian man was detained by governor order four times over a seven-month period. On 27 March 2014, a court issued a release order that was not implemented because the Governor decided to keep the detainee in detention for an additional three weeks on the grounds of public order. He was detained again from 7 to 14 August, and from 1 to 7 and from 12 to 16 November. According to the information received, the order was aimed at protecting the man from alleged death threats in relation a case of a so-called "honour" killing. In that case, the Palestinian authorities should have taken the measures necessary to protect the man's life, including by investigating the death threats, rather than deprive him of liberty as a "protective" measure.

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[32] According to the Human Rights Committee, the decision to keep a person in detention is arbitrary if it is not subjected to a periodic review of the justification to continue detention. See for example CCPR/C88/D/1324/2004, para. 7.2.

[33] International Covenant on Civil and Political Rights, art. 14; Human Rights Committee general comment No. 32 (CCPR/C/GC/32), para. 34; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 18. The Basic Principles on the Role of Lawyers establish that States should ensure prompt access to a lawyer in any case no later than 48 hours after the arrest or detention. According to Palestinian Law on Penal Procedure No. 3, art. 103, communication restrictions imposed during the interrogation period do not apply to lawyers, who may contact their clients without any restriction.

[34] Jordanian Crime Prevention Law 1954, Palestinian Presidential Decree No. (22) of 2003 on the capacities of Governors. Palestinian law still includes some Jordanian law dating from the time of Jordanian control over the West Bank, including East Jerusalem.

[35] Jordanian Crime Prevention Law 1954, art. 4 and Jordanian Administrative Divisions Regulation 1966, art. 12

[36] International Covenant of Civil and Political Rights, art. 9. Judicial control of detentions applies in all cases, without exception. See also CCPR/C/GC/35, para. 32.

2. Violence against women

48. Palestinian women face multiple forms of violence and discrimination (A/HRC/25/40, paras. 72-74). So-called "honour" killings continue to be a matter of concern. Although no reliable figures were available for the period under review, the Palestinian Independent Commission for Human Rights, in its ninth annual report, found that, in 2013, there had been three cases of such killings and 16 cases of women killed in "mysterious circumstances" in the Occupied Palestinian Territory.[37] The accuracy of figures might also be affected by underreporting.[38]

49. A study commissioned by OHCHR on the response by the Palestinian judiciary to so-called "honour killings" concluded that the broad use of mitigating circumstances led to impunity for such crimes.[39] The study analysed a sample of 37 rulings by the courts of first instance in the West Bank (32) and Gaza (five) issued between 1993 and 2013 on cases involving the killing of women "under the pretext of honour". In 29 cases, the judges reduced the perpetrator's penalty on the basis of extenuating circumstances established in articles 98 and 99 of the Penal Code 16 of 1960.[40] Reasons for extenuating culpability include the waiving of personal rights (37.8 per cent),[41] the "fit of rage" justification (16.2 per cent) and the defence of "honour" (8.1 per cent).

50. In May 2014, the President issued a Decree Law amending article 98 of the Penal Code so that perpetrators of crimes of so-called "honour" crimes against women could not benefit from article 98, which allows for mitigation in sentencing. The High Commissioner commends this measure. However, concerns remain regarding article 99, which gives broad discretionary power to judges in the application of mitigating factors. Of the 37 cases analysed in the OHCHR study, judges used article 99 in 23 cases as a basis for allowing perpetrators of crimes of so-called "honour" to benefit from mitigating factors in sentencing.[42]

C. Authorities in Gaza

1. Arbitrary detention, torture and ill-treatment

51. Arbitrary detention, torture and ill-treatment by the security forces remain issues of concern in Gaza. During the period under review, the Internal Security Agency and the police allegedly subjected detainees to torture and ill-treatment, and arbitrarily summoned and detained several civilians on various charges.

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[37] Among the cases of women killed in "mysterious circumstances", one was shot and killed by her son, one was stabbed to death by her husband and three others "fell" from high floors or their own balconies.

[38] The Women's Centre for Legal Aid and Counselling, a non-governmental organization, recorded 27 cases of so-called "honour" killings in 2013, significantly higher than those recorded by the Palestinian Independent Commission for Human Rights.

[39] Ahmad Al Ashqar, "Murder of women in Palestine under the pretext of honour", OHCHR, April 2014.

[40] Such circumstances include a state of great anger resulting from a wrongful or dangerous act by the victim (art. 98) and "extenuating reasons" (art. 99), which are however not defined. See A/HRC/25/40, para.74.

[41] Palestinian courts in general allow one of the heirs to the victim to waive their personal right to punishment of the perpetrator of a so-called "honour" killing. See Al Ashqar, "Murder of women in Palestine" (see footnote 39), pp. 10-11.

[42] Ibid., p. 13.

2. Wide-scale arrest campaigns against social activists and Fatah members and supporters

52. Many Fatah members and supporters across the Gaza Strip were reportedly summoned or arrested by the Internal Security Agency and questioned about Fatah's plans to mark the anniversary of the death of Yasser Arafat on 11 November 2013.

53. Alleged members of Salafist groups were also subjected to arbitrary arrest and detention by the Internal Security Agency. From 4 to 6 March 2014, the Agency arrested without warrant two people suspected of organizing an attack targeting a church in the south of Gaza. One of them was accused of being affiliated with the Islamic State group.

54. OHCHR also documented several cases related to the arrest, reportedly without a warrant, of persons suspected of treason. The absence of a legal warrant is one illustration of a wider pattern of abuse by the Internal Security Agency and of violations of the rights of persons deprived of their liberty.

3. Torture, ill-treatment and violations of due process

55. Many detainees held in detention by the Internal Security Agency were allegedly subjected to torture and ill-treatment upon arrest and during interrogation. Torture methods included beating with sticks, sensory deprivation (blindfolding), *shabeh*, solitary confinement and intimidation. Gazan security agencies appeared to use harsher interrogation techniques with detainees suspected of treason.

56. In a case monitored by OHCHR, in February 2014, a 27-year-old man accused of treason was arrested by the Internal Security Agency. He was detained and transferred to the civilian prison in Al-Katiba, west of Gaza city, where he was held for another six days. He claimed that, during interrogations, he was beaten with a rubber stick and forced into *shabeh*. He was reportedly detained in solitary confinement with the aim of obtaining information on his alleged collaboration with Israel. Following his transfer back to the Agency detention facility, he was held again in solitary confinement. He was allegedly denied access to a lawyer and family visits.

57. In a similar case, in March 2014, a 38-year-old man suspected of treason was arrested by the Internal Security Agency. He was reportedly held in solitary confinement and threatened with hanging. Although he was permitted to see the prosecutor, who extended his detention for 15 days, he was denied the right to contact his wife and a lawyer. Moreover, he was reportedly denied access to medical treatment while suffering from a serious liver illness.

58. Alleged members of the Tamarod movement (see A/HRC/25/40, para. 65) arrested in November 2013 were also allegedly subjected to beatings on the hands and feet with a stick, punching, shackling for extensive time periods and *shabeh*. A 16-year-old youth suspected of being affiliated with Tamarod was arrested by the investigation police and was held in detention for two days before being released. He was allegedly subjected to beatings on the soles of the feet, *shabeh* and sleep deprivation. The victim reported to OHCHR that nine other people were in detention on the same charges during his detention. He had been detained on previous occasions for similar accusations. Some Fatah members also alleged that they had been subjected to ill-treatment during detention. In March 2014, a 21-year-old Fatah member was held in detention for several hours by the investigation police owing to his participation in a demonstration supporting the Israeli-Palestinian peace process. He was reportedly held in solitary confinement and slapped in the face numerous times, forced to stand on a wet and dirty floor, and verbally abused. He was subsequently released with no charges.

4. Deaths in custody

59. In March 2014, a 45-year-old man from Deir El Balah suffering from several health conditions died in police custody. He had been arrested by the Police Criminal Investigation Department without an arrest warrant on 1 March 2014 in connection with a family dispute. The police were reportedly aware of the victim's heart, kidney and lung conditions, and his family had repeatedly requested the police to transfer him for medical treatment. On 7 March, the man was transferred to Nasser Hospital, in Khan Younis, for medical treatment. Subsequently, after a few hours of treatment on the same day, he was transferred back to Khan Younis police station, where he died on 12 March 2014. OHCHR received information indicating that the police headquarters had established an investigation committee and that the findings would be made public. At the end of the period under review, OHCHR was not aware of any outcome of the investigation committee.

60. Two other cases of death in custody were reported to OHCHR during the period under review. The first case, on 14 May 2014, related to a 33-year-old man detained in Beit Lahia prison for drug dealing who died in custody after spending 27 days in detention.[43] The second case, also in Beit Lahia prison, arose on 16 May 2014, where a 28-year-old man was being detained on criminal charges. In both cases, the Gaza Ministry of the Interior stated that the cause of death was a heart attack.[44] It launched an investigation into the first case, but the findings have yet to be been published. The circumstances of the cases and the lack of public information on the investigations raise concerns regarding the treatment to which the detainees may have been subjected while in custody, including if they were provided with an adequate medical health care.

5. Freedom of expression and peaceful assembly

61. In November 2013, the Internal Security Agency launched a wide-scale campaign targeting alleged members of the Tamarod movement across the Gaza Strip, including by raiding their houses, confiscating property (such as laptop computers and mobile telephones) and arresting and detaining them (see paras. 55-58 above).

62. From 6 to 18 November 2013, the Internal Security Agency and the Police Criminal Investigation Department summoned and arrested several people from different parts of Gaza based on their alleged political affiliation with Fatah and Tamarod. Many Palestinians in Gaza reported to OHCHR that they were forced to sign a document stating that they would not participate in any movement and not incite hatred against the authorities in Gaza, nor engage in any hostile activities or demonstration against them.

63. During the period under review, OHCHR continued to document cases of arbitrary arrest and detention of journalists and human rights defenders for participating in public events (see also A/HRC/25/40, paras. 63-67). On 12 November 2013, the head of the General Union of Palestinian Women and several other women were briefly detained by the Internal Security Agency following a protest against the political split between Hamas and Fatah. On 24 March 2014, a journalist was detained by the Police Criminal Investigation Department after posting a video clip on Facebook criticizing the political situation in Gaza.

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[43] Palestinian Centre for Human Rights, "PCHR calls for investigating death of detainee in Beit Lahia detention facility", 14 May 2014.

[44] Palestinian Centre for Human Rights, "Another detainee dies in Beit Lahia detention facility; PCHR calls for establishing independent inquiry committee to investigate detention conditions in the facility", 18 May 2014.

6. Violations in the context of the escalation of hostilities

64. In a case monitored by OHCHR, in August 2014, a 28-year-old man suspected of treason was arrested by the Internal Security Agency and held in an unknown detention facility in Gaza for approximately 10 days. He was reportedly subjected to beatings and solitary confinement, and was denied access to a lawyer and family visits. He was subsequently transferred to an Agency prison in Ansar. Reportedly, his sister was detained in another detention facility on suspicion of treason and brought to an Agency detention facility for interrogation on several occasions, where she was allegedly tortured.

65. A total of 21 alleged collaborators were reportedly summarily executed by Palestinian armed groups in August 2014. Some of them were allegedly tortured prior to execution (see also A/HRC/28/80/Add.1, paras. 73-74).

IV. Accession of the State of Palestine to international human rights treaties

66. In April 2014, the State of Palestine deposited instruments of accession to 20 international treaties, including seven human rights treaties and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Geneva Conventions of 12 August 1949, Additional Protocol I to the Geneva Conventions and the Convention respecting the Laws and Customs of War on Land. Each accession was effected without reservations, a notable decision in a region with a large number of reservations to human rights treaties. Accession by the State of Palestine to the core international human rights treaties represents a significant strengthening of the legal framework for the protection and promotion of human rights in Palestine. The challenge will be to put these legal commitments into effect in law and in practice.

67. Since 2011, OHCHR has been working with the Ministry of Justice and the Ministry of Planning and Administrative Development of the Palestinian Authority to develop a rights-based framework for the national development agenda. A broad-based collaborative process produced a comprehensive 160-page guidance document setting out concrete recommendations on how to incorporate human rights more effectively into development programming. The document was finalized by the Government of the State of Palestine in January 2014.

68. Most of the recommendations in the guidance document were integrated into the Palestinian National Development Plan for 2014–2016, which was finalized in February 2014, providing a strong human rights-based framework in the four sectors covered by the Plan: social development, economic development, infrastructure and governance. The document was framed to provide guidance for integrating human rights into the Plan as well as in future Palestinian development plans. The document has been available to those involved in the damage and needs assessment exercise being conducted by the Government of the State of Palestine for the long-term reconstruction of Gaza after the escalation of July and August 2014.

69. Accession to international human rights treaties has provided an opportunity for OHCHR to build on its work with the Palestinian authorities, as well as with the Palestine Independent Commission for Human Rights and civil society, to ensure that the political commitments contained in the Palestinian National Development Plan are implemented in accordance with the legal commitments contained in the treaties. The Government has adopted a coordinated approach to its treaty reporting, which aims to draw on the linkages between treaty provisions and the Plan. With this approach, it is hoped that the initial treaty reports will provide a comprehensive baseline assessment for implementation of human

rights in the context of national development programming. Such an assessment can provide a firm starting point to address some of the human rights concerns raised in the present and previous reports of the High Commissioner and the Secretary-General.

V. Recommendations

A. Government of Israel

70. **The High Commissioner recommends that the Government of Israel take all possible measures:**

(a) To ensure full respect of its obligations under international humanitarian law, particularly obligations governing the conduct of hostilities, such as the principles of distinction, proportionality and precaution, and international human rights law in the Occupied Palestinian Territory, as well as full accountability for violations of the said obligations;

(b) Lift the blockade of Gaza in order to halt the ongoing punitive measures against civilians; measures should be taken to ensure the freedom of movement of civilians and the transfer of goods into and out of, and within, Gaza, including materials necessary for its reconstruction, in accordance with international law and with due regard to security concerns;

(c) Ensure that the use of force by the Israeli security forces in situations other than hostilities, including in the areas of restricted access, is in compliance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and allow for an independent assessment and review of open fire regulations and the rules of engagement to ensure their compatibility with international law;

(d) Carry out prompt, effective, independent, impartial, thorough and transparent investigations of alleged unlawful killings and injuries of Palestinians, and of allegations of torture and ill-treatment, allowing for meaningful participation of victims and their relatives and for public scrutiny; and ensure that perpetrators are be brought to justice and that victims have access to an effective remedy;

(e) Halt any plans that would result in the forcible transfer of Palestinian Bedouin communities and herders currently residing in Area C of the West Bank;

(f) Ensure that all acts of violence committed by Israeli settlers against Palestinians and their property are investigated independently, impartially, thoroughly, promptly, effectively and in a non-discriminatory manner, and that perpetrators are brought to justice and victims have access to an effective remedy;

(g) Implement UNICEF recommendations that remain unimplemented, and those made by the Committee on the Rights of the Child with regard to Palestinian children in Israeli detention;

(h) Either charge and bring to trial or release any person in administrative detention, and put an end to the administrative detention regime in its current form in Israel.

B. Government of the State of Palestine

71. **The High Commissioner recommends that the Government of the State of Palestine:**

(a) Take measures to respect and protect the rights of persons deprived of their liberty, particularly the rights to physical integrity, to a fair trial and to due process of law;

(b) Conduct prompt, effective, independent, impartial, thorough and transparent investigations of allegations of torture and ill-treatment, and ensure that perpetrators are brought to justice and victims have access to an effective remedy;

(c) Either charge and bring to trial or release all detainees under the governor orders, and end the practice of detentions based on governor orders;

(d) Ensure periodic and effective judicial review of a person's detention in all cases, without exception;

(e) Take all necessary measures to ensure that perpetrators of all acts involving violence against women, including so-called "honour killings", are prosecuted and appropriately sentenced; for instance, amend article 99 of the Penal Code to prevent mitigating circumstances leading to impunity for such crimes.

C. Authorities in Gaza

72. **The High Commissioner calls upon the authorities in Gaza:**

(a) To respect international humanitarian law, particularly the principles of distinction, proportionality and precaution, and to ensure accountability for violations;

(b) To take all the necessary measures to ensure that the rights of persons deprived of liberty are respected, including by ensuring effective, independent, impartial, thorough and transparent investigations into allegations of torture and ill-treatment, and to ensure that perpetrators are brought to justice and that victims have access to an effective remedy;

(c) To conduct prompt, effective, independent, impartial, thorough and transparent investigations on allegations of summary executions and cases of death of persons in the custody of the authorities;

(d) To refrain from unlawful restrictions on the freedoms of expression and of peaceful assembly.

D. Palestinian armed groups in Gaza

73. **The High Commissioner calls upon Palestinian armed groups in Gaza to respect international humanitarian law, particularly the principles of distinction, proportionality and precaution, and to ensure accountability for violations.**